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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/630,304	07/30/2003	Junichi Asada	MTS-3195US1	9114
23122	7590	07/09/2004	EXAMINER	
RATNERPRESTIA P O BOX 980 VALLEY FORGE, PA 19482-0980			VUONG, BACH Q	
			ART UNIT	PAPER NUMBER
			2653	

DATE MAILED: 07/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/630,304

Applicant(s)

ASADA ET AL.

Examiner

Bach Q Vuong

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,3,7,9,11 and 31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3,7,9,11 and 31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

### *Double Patenting*

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1, 3, 7, 9, 11 and 31 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-3, 5, 8 and 9 of U.S. Patent No. 6,674,709. Although the conflicting claims are not identical, they are not patentably distinct from each other because all the features recited in claims 1, 3, 7, 9, 11 and 31 of the present application are included in claims 1-3, 5, 8 and 9 of US patent No. 6,674,709. The only difference is the wording of the claimed languages.

#### Claims of the present application:

#### Claims of U.S. patent 6,674,709:

1

3

3

1 and 2

7

1 and 5

9

1 and 6

11

1 and 7

31

1 and 8

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*Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, 9, 11 and 31 are rejected under 35 U.S.C. 102(b) as being anticipated by Noda et al. (US 5,600,621).

Noda et al., according to Figs. 1-6, shows an optical head apparatus comprising all features of the claimed invention as indicated below:

Regarding claim 1, see Figs. 1-6 which show an optical head apparatus comprising: a semiconductor laser light source (see semiconductor laser chip 1); a photodetector (see light receiving element 25) that receives at least one part of light from the semiconductor laser light source; a light reflection element (see Fig. 5, transparent flat plate 23 and mirror 24) provided with a peripheral section that reflects peripheral light of the light from the semiconductor laser light source and condenses it into the photodetector and central section that transmits central light of the light from the laser light source; and a condenser lens (see light component 2) that condenses the light that passes through the light reflection element onto an optical disc, wherein each surface of the central section of the light reflection element has a flat shape; and at least one surface of the peripheral section of the light reflection element (see Fig. 6 mirror 26) has a spherical or non-spherical curved shape, the spherical or non-spherical curved shape forming a surface of rotation about the central section of the light reflecting element (see disclosures of Figs. 3, 4A-4D, 5, 6).

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Regarding claim 3, see Figs. 5 and 6 which show an optical head apparatus characterized in that the condensing function of the peripheral section of the light reflection element has a spherical aberration (see disclosure of Figs. 5 and 6).

Regarding claim 9, see disclosure of Fig. 6 which show an optical head apparatus wherein the optical axis of the reflected light from the peripheral section of the light reflection element is inclined with respect to the optical axis of the light from said semiconductor laser light source.

Regarding claim 11, see housing 21 of Figs. 5 and 6 which show an optical head apparatus wherein the semiconductor laser light source and the photodetector are formed in one package.

Regarding claim 31, see Figs. 3 and 6 which show an optical head apparatus wherein a first surface of the peripheral section of the light reflection element is nearer the semiconductor laser light source than a second surface of the peripheral section of the light reflection element (see elements 19 and 26) and the first surface has flat shape and second surface has the spherical or non-spherical curved shape.

#### *Cited References*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited references relate to optical head and method for monitoring light source and laser output control device for an optical information recording and reproducing apparatus.

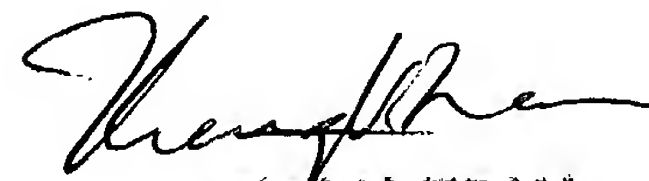
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bach Q Vuong whose telephone number is (703) 305-7355. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Korzuch can be reached on (703) 305-6137. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

BV  
July 6, 2004

  
THANG V. TRAN  
PRIMARY EXAMINER